

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 1477

Introduced by Senator Anderson

February 24, 2012

An act to amend Section 1277 of the Code of Civil Procedure, relating to confidential records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, as amended, Anderson. Confidential records: name changes.

Existing law establishes the procedure for a person to change his or her name. In the case of a petition for the name change of a person under 18 years of age, existing law requires the petition to include the name and address of the minor's parent or parents, as specified, and requires a minor's nonconsenting parent to be served with notice of the time and place of the hearing. When a proceeding for a change of name is commenced by the filing of a petition, existing law requires the court to issue an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed, except as specified. Existing law also authorizes an address confidentiality program for victims of domestic violence, sexual assault, or stalking for the purposes of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record and otherwise providing for confidentiality of identity for that person, subject to specified conditions. Existing law provides that if a petition for a change of name alleges a specified reason or circumstance and the petitioner is a participant in

the address confidentiality program, the action for a change of name is exempt from the publication requirement.

This bill would authorize a court to waive the above-described requirements for publication and notice if required to protect the best interests of the child upon a showing by the petitioner that the child and petitioner are participants in the address confidentiality program, that the petitioner has sole custody of the child, that the child is protected by an order pursuant to the Domestic Violence Prevention Act that prevents the nonpetitioning parent from having contact with the child for at least 5 years, and that the nonpetitioning parent is not subject to an order to pay child support for the minor.

This bill would also revise the provisions that authorize a petition for name change to be exempt from the notice and publication requirements described above to require the petitioner to establish that he or she is an active participant in the address confidentiality program and that the name that he or she is seeking to acquire is on file with the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1277 of the Code of Civil Procedure is
2 amended to read:
3 1277. (a) If a proceeding for a change of name is commenced
4 by the filing of a petition, except as provided in subdivisions (b),
5 (c), and (e), the court shall thereupon make an order reciting the
6 filing of the petition, the name of the person by whom it is filed,
7 and the name proposed. The order shall direct all persons interested
8 in the matter to appear before the court at a time and place
9 specified, which shall be not less than six nor more than 12 weeks
10 from the time of making the order, unless the court orders a
11 different time, to show cause why the application for change of
12 name should not be granted. The order shall direct all persons
13 interested in the matter to make known any objection that they
14 may have to the granting of the petition for change of name by
15 filing a written objection, which includes the reasons for the
16 objection, with the court at least two court days before the matter
17 is scheduled to be heard and by appearing in court at the hearing
18 to show cause why the petition for change of name should not be

1 granted. The order shall state that, if no written objection is timely
2 filed, the court may grant the petition without a hearing.

3 A copy of the order to show cause shall be published pursuant
4 to Section 6064 of the Government Code in a newspaper of general
5 circulation to be designated in the order published in the county.
6 If no newspaper of general circulation is published in the county,
7 a copy of the order to show cause shall be posted by the clerk of
8 the court in three of the most public places in the county in which
9 the court is located, for a like period. Proof shall be made to the
10 satisfaction of the court of this publication or posting, at the time
11 of the hearing of the application.

12 Four weekly publications shall be sufficient publication of the
13 order to show cause. If the order is published in a daily newspaper,
14 publication once a week for four successive weeks shall be
15 sufficient.

16 If a petition has been filed for a minor by a parent and the other
17 parent, if living, does not join in consenting thereto, the petitioner
18 shall cause, not less than 30 days prior to the hearing, to be served
19 notice of the time and place of the hearing or a copy of the order
20 to show cause on the other parent pursuant to Section 413.10,
21 414.10, 415.10, or 415.40. If notice of the hearing cannot
22 reasonably be accomplished pursuant to Section 415.10 or 415.40,
23 the court may order that notice be given in a manner that the court
24 determines is reasonably calculated to give actual notice to the
25 nonconsenting parent. In that case, if the court determines that
26 notice by publication is reasonably calculated to give actual notice
27 to the nonconsenting parent, the court may determine that
28 publication of the order to show cause pursuant to this subdivision
29 is sufficient notice to the nonconsenting parent. A court may waive
30 the requirements for publication and notice under this section if
31 required to protect the best interests of the child upon a showing
32 by the petitioner of all of the following:

33 (1) The child and the petitioner are participants in the address
34 confidentiality program created pursuant to Chapter 3.1
35 (commencing with Section 6205) of Division 7 of Title 1 of the
36 Government Code.

37 (2) A court has issued a final order awarding the petitioner sole
38 legal and physical custody of the child.

39 (3) The child is protected by an order issued after a hearing
40 pursuant to the Domestic Violence Prevention Act, Division 10

1 (commencing with Section 6200) of the Family Code, that prevents
2 the nonpetitioning parent from having any contact with the child
3 and that was issued with a duration of at least five years.

4 (4) The nonpetitioning parent is not subject to an order to pay
5 child support for the minor whose name is proposed to be changed.

6 (b) (1) If the petition for a change of name alleges a reason or
7 circumstance described in paragraph (2), and the petitioner ~~is a~~
8 *has established that he or she is an active* participant in the address
9 confidentiality program created pursuant to Chapter 3.1
10 (commencing with Section 6205) of Division 7 of Title 1 of the
11 Government Code, *and that the name he or she is seeking to*
12 *acquire is on file with the Secretary of State*, the action for a change
13 of name is exempt from the requirement for publication of the
14 order to show cause under subdivision (a), and the petition and the
15 order of the court shall, in lieu of reciting the proposed name,
16 indicate that the proposed name is confidential and ~~will be~~ *is* on
17 file with the Secretary of State pursuant to the provisions of the
18 address confidentiality program.

19 (2) The procedure described in paragraph (1) applies to petitions
20 alleging any of the following reasons or circumstances:

21 (A) To avoid domestic violence, as defined in Section 6211 of
22 the Family Code.

23 (B) To avoid stalking, as defined in Section 646.9 of the Penal
24 Code.

25 (C) The petitioner is, or is filing on behalf of, a victim of sexual
26 assault, as defined in Section 1036.2 of the Evidence Code.

27 (3) For any petition under this subdivision, the current legal
28 name of the petitioner shall be kept confidential by the court and
29 shall not be published or posted in the court's calendars, indexes,
30 or register of actions, as required by Article 7 (commencing with
31 Section 69840) of Chapter 5 of Title 8 of the Government Code,
32 or by any means or in any public forum, including a hardcopy or
33 an electronic copy, or any other type of public media or display.

34 (4) (A) A petitioner may request that the court file the petition
35 and any other papers associated with the proceeding under seal.
36 The court may consider the request at the same time as the petition
37 for name change, and may grant the request in any case in which
38 the court finds that all of the following factors apply:

39 (i) There exists an overriding interest that overcomes the right
40 of public access to the record.

1 (ii) The overriding interest supports sealing the record.

2 (iii) A substantial probability exists that the overriding interest
3 will be prejudiced if the record is not sealed.

4 (iv) The proposed order to seal the records is narrowly tailored.

5 (v) No less restrictive means exist to achieve the overriding
6 interest.

7 (B) On or before January 1, 2010, the Judicial Council shall
8 develop rules of court and forms consistent with the requirements
9 of this paragraph.

10 (c) A proceeding for a change of name for a witness participating
11 in the state Witness Protection Program established by Title 7.5
12 (commencing with Section 14020) of Part 4 of the Penal Code
13 who has been approved for the change of name by the program is
14 exempt from the requirement for publication of the order to show
15 cause under subdivision (a).

16 (d) If application for change of name is brought as part of an
17 action under the Uniform Parentage Act (Part 3 (commencing with
18 Section 7600) of Division 12 of the Family Code), whether as part
19 of a petition or cross-complaint or as a separate order to show
20 cause in a pending action thereunder, service of the application
21 shall be made upon all other parties to the action in a like manner
22 as prescribed for the service of a summons, as is set forth in Article
23 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of
24 Part 2. Upon the setting of a hearing on the issue, notice of the
25 hearing shall be given to all parties in the action in a like manner
26 and within the time limits prescribed generally for the type of
27 hearing (whether trial or order to show cause) at which the issue
28 of the change of name is to be decided.

29 (e) If a guardian files a petition to change the name of his or her
30 minor ward pursuant to Section 1276:

31 (1) The guardian shall provide notice of the hearing to any living
32 parent of the minor by personal service at least 30 days prior to
33 the hearing.

34 (2) If either or both parents are deceased or cannot be located,
35 the guardian shall cause, not less than 30 days prior to the hearing,
36 to be served a notice of the time and place of the hearing or a copy
37 of the order to show cause on the child's grandparents, if living,
38 pursuant to Section 413.10, 414.10, 415.10, or 415.40.

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